

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Devin Lampkin,

Petitioner

v.

High Desert State Prison, et al.,

Respondents

Case No.: 2:23-cv-001997-JAD-EJY

**Order Granting Petitioner’s Motion for
Leave to File Second Amended Petition
and Motion for Leave to File Exhibits
Under Seal**

[ECF Nos. 18, 20]

Petitioner Devin Lampkin filed a counsel first amended § 2254 habeas petition based on his calculations for filing a timely petition under the Antiterrorism and Effective Death Penalty Act.¹ Lampkin now moves for leave to file a second amended petition² and asks to file exhibits under seal.³ I grant both requests.

Discussion

A. Motion for Leave to File a Second Amended Petition

Lampkin requests leave to file a second amended petition so that he can continue to investigate his case, including locating and interviewing witnesses.⁴ He further requests that I waive the requirement of LR 15-1(a), which generally requires a party to attach the proposed amended pleading to a motion seeking leave to amend, explaining that he does not yet know the outcome of his completed investigation.⁵ His motion essentially seeks to pursue a “two-step” procedure whereby Lampkin (a) files an initial counseled amended petition preserving all then-

¹ ECF No. 16.

² ECF No. 20.

³ ECF No. 18.

⁴ *Id.* at 3.

⁵ *Id.* at 4.

1 known claims potentially free of possible relation-back or timing issues and (b) thereafter
 2 potentially files a second amended petition after federal habeas counsel has had a full
 3 opportunity to independently investigate all potential claims. Respondents oppose amendment
 4 because Lampkin failed to file a proposed amended pleading in compliance with Local Rule 15-
 5 1(a), Lampkin has had ample time to investigate and locate witnesses because his petition has
 6 been pending for almost a year, and any proposed amendment is futile because this court cannot
 7 consider new evidence.⁶

8 I find good cause to grant Lampkin’s motion for leave to file a second amended petition
 9 and I waive the requirement of LR 15-1(a). Under Federal Rule of Civil Procedure 15(a)(2), a
 10 party may amend a pleading with the court’s leave, and “[t]he court should freely give leave
 11 when justice so requires.” This order does not, however, affect, in any manner, the operation of
 12 the statute of limitations in this case, and I do not intend this order to convey any opinion
 13 whatsoever about when the limitations period expires (or expired). I similarly do not intend this
 14 order to convey any opinion whatsoever whether I may consider any evidence that was not
 15 developed during the state court proceedings.⁷

16 **B. Motion for Leave to File Exhibits Under Seal**

17 Lampkin moves for leave to file exhibits under seal.⁸ Unless a particular court record is
 18 one “traditionally kept secret,” there is a strong presumption in favor of access” to the record.⁹
 19 Parties seeking to seal a judicial record must overcome this presumption by “articulat[ing]
 20 compelling reasons supported by specific factual findings,” that outweigh the traditional right of

21 _____
 22 ⁶ ECF No. 21 at 2 (citing *Shinn v. Ramirez*, 596 U.S. 366 (2022)).

23 ⁷ Consideration of new evidence may be subject to 28 U.S.C. § 2254(e)(2)).

⁸ ECF Nos. 18, 19.

⁹ *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).


1 public access to each document they seek to seal.¹⁰ In general, compelling reasons for sealing
 2 exist when court records might become a vehicle for improper purposes, such as “gratify private
 3 spite, promote public scandal, circulate libelous statements, or release trade secrets.”¹¹

4 Exhibits 2 and 3 contain Lampkin’s medical records.¹² The need to protect medical
 5 privacy generally qualifies as a compelling reason for sealing records submitted with a
 6 dispositive motion, and I find that a compelling need to protect Lampkin’s medical privacy
 7 outweighs the public interest in open access to the court records contained in Exhibits 2 and 3.

8 **Conclusion**

9 IT IS THEREFORE ORDERED that Lampkin’s motion for leave to file a second
 10 amended petition [ECF No. 20] is **GRANTED**. Lampkin has **until January 6, 2025, to file his**
 11 **second amended petition**. In all other respects, the provisions of the scheduling order¹³ entered
 12 following appointment of counsel will remain in effect.

13 IT IS FURTHER ORDERED that Lampkin’s motion for leave to file exhibits under seal
 14 [ECF No. 18] is **GRANTED**; the Clerk of Court is directed to **maintain the seal** on exhibits 2
 15 and 3 [filed at ECF Nos. 19-1 and 19-2].

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 17 
 18 U.S. District Judge Jennifer A. Dorsey
 December 3, 2024

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 21 ¹⁰ *Id.*

22 ¹¹ *Demaree v. Pedersen*, 887 F.3d 870, 884 (9th Cir. 2018) (quoting *Kamakana*, 447 F.3d at 1179).

23 ¹² ECF Nos. 19-1; 19-2.

¹³ ECF No. 12.